

demographics is clearly defined in the specification as filed at page 8 beginning on line 8 as “TSM 140 prompts the buyer for business demographics, including, for example, the company size, industry, number of locations, whether there are any international sites, typical monthly spending on telecommunication services, etc. [step 530].” In other words, “demographics” is used to define characteristics used to identify a business. Reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, second paragraph, is respectfully requested.

The Rejections Under 35 U.S.C. § 103

Claims 1-38 are rejected under 35 U.S.C. § 103(a) as being obvious in light of Shavit et al. In addition, claims 1-38 are rejected under 35 U.S.C. § 103(a) as being obvious over Shavit in view of Walker et al. and Thomas et al..

In paragraph 5 of the Office Action, the Examiner cites *Ex parte Masham* for the proposition that the manner in which a claimed apparatus is intended to be employed does not differentiate the apparatus from a prior art apparatus satisfying the structural limitations of that claimed. Unlike the present rejection, *Ex parte Masham* involved a 102(b) anticipation rejection which relied on a prior art reference to a claimed mixing apparatus. The proposition proffered in *Masham* is indeed a tenant of patent law, because the problem addressed by that which was claimed and the cited prior art reference were the same *i.e.*, mixing matter. However, in the instant case, the claimed invention and the cited references do not address similar issues nor do they share components necessary to achieve their respective goals. The fact that the invention is specific for the selling of telecommunications is germane because the problems which are solved by the invention address a problem set, unique to the telecommunication industry. Broadening the claims to include all methods of selling and business communications in general simplistically disregards the limitation prescribed by the claim language, *i.e.*,

“telecommunication services” and neglects the disclosure which addresses a unique problem set not previously addressed by the prior art. See MPEP 2106 “Office personnel must rely on the applicants’ disclosure to properly determine the meaning of terms used in the claims.” Citing *Markman v. Westview Instruments*, 34 USPQ2d 1321.

Shavit et al. does not disclose or suggest the claimed invention. The claimed invention is a method for purchasing telecommunication services that includes a step of receiving a request for purchasing telecommunication at least one telecommunication service from a buyer; providing the request to a plurality of sellers, each seller being associated with a different provider of telecommunication services; receiving a reply from at least one seller; providing the reply to the buyer; receiving a selection from the buyer in response to the reply; and notifying a provider of the selection and identity of the buyer. (Independent claims 1 and 35 and dependent claims 2-12). The claimed invention is also a system for purchasing telecommunication services so as to be able to carry out the claimed method (independent claims 13, 14, 30, 31 and 36 and dependent claims 15-25 and 32-34); a computer-implemented method for purchasing telecommunication services (independent claim 26 and dependent claims 27-29); and a computer-readable medium configured to store instructions so as to be able to carry out the claimed method (independent claims 37 and 38).

Shavit et al. discloses a system for interactive on-line communications and interactive on-line processing of business transactions between a plurality of users, including buyers, sellers, financial institutions and freight service providers. See Abstract. Each user communicates with the system from remote terminals adapted to access communication links. *Id.* Although the system includes a database that contains user information and although the system permits

concurrent interactive business transactions between different users (id.), the system is not configured in accordance with the claimed invention.

Shavit et. al. discloses a laundry list of various business trading components. However, no explanation has been provided as to why or how the list relates to the present invention or how the list renders the claimed invention obvious.¹ The Applicants contend that the wholesale listing of various components to a business transaction is insufficient to render obvious the claimed invention, which carefully describes the various elements related to telecommunication services and is further limited by the sequence in which the elements are presented during a transaction for telecommunication services. For example, the claims specify (1) that seller(s) be selected based on buyer criteria; (2) that the buyer select the seller from the list provided; and (3) that the seller be notified after selection by the buyer. This is consistent with the buyer driven model offered by the invention. Thus, the identity of the buyer is reserved until the buyer selects a specific seller of telecommunication services. This sequence of events is not taught by Shavit et. al. which considers information about the buyer integral to the original transaction to arrange for shipping, third-party financing, delivery notification, etc. See, for example, col. 11 at lines 14-20.

¹ After indicating that the rejection is under 35 U.S.C. 103, the examiner should set forth in the Office action:

- (A) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate,
- (B) the difference or differences in the claim over the applied reference(s),
- (C) the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and
- (D) an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.

See MPEP 706.02(j)

The specification discloses a few of the negotiable contract terms that are unique to the telecommunication industry including: service start date and duration of service (see p. 11 lines 4-7); contact changes (p. 15 line 13); dynamic variable services for desired locations (see p.10 lines 3-11). The Applicants submit that it is not obvious to provide a platform to consolidate telecommunication service buyers by registering the buyers and their purchase history in a manner to increase buyer leverage against telecommunication service providers as disclosed in the present invention. The cited reference is vacuous with practical methods offering a solution to the uncertainty in telecommunication price structures. The present invention solves this problem.

Claims 1-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit et. al. in view of Walker et. al. Shavit is combined with Walker et al. to demonstrate a specific teaching of supplying a user request to many qualified sellers. Shavit et al. does not disclose or suggest the claimed invention for the reasons discussed above. Walker et al. adds nothing to Shavit et al. Walker et. al. discloses a method where the buyer sends a binding purchase offer to the seller, and which allows the seller to choose whether to bind the buyer to the proposed services that the buyer is ready to purchase. See Abstract. Walker et. al. also provides that the seller can respond to a buyer's request by offering a binding counter-offer. Id. Walker et. al. differs from the claims in a number of respects. The buyer in the claimed invention is not bound by the terms of the initial request for service, but rather is permitted access to a list of sellers (providers) capable of providing customized telecommunication services. The buyer then is permitted to choose with whom to negotiate. This is illustrated in the specification at, e.g., page 14 and is displayed graphically in Figs. 8A and 8B. The buyer may choose the seller based not only on price, but also based on a list of additional negotiated contract terms that are unique to

the telecommunication services industry. Thus, Applicants submit that the claimed invention is not rendered obvious by either reference alone or in combination. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 4, 7, 17 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shavit et al. in view of Thomas et al. Shavit et al. does not disclose or suggest the claimed invention for the reasons discussed above. Thomas et al. adds nothing to Shavit et al. Thomas et al. discloses a system for communication outsourcing information between an outsourcing company and a plurality of contractors. See Abstract. The system includes the use of outsourcing companies that search a database containing contractor information to determine which contractors meet a particular search criteria. Id. One combining Shavit et al. and Thomas et al. would not achieve the claimed invention which as discussed herein is specific to the telecommunications industry and is specific to telecommunications services. Reconsideration and withdrawal of the rejection of claims 4, 7, 17 and 20 are respectfully requested.

In view of the above remarks, the Applicants respectfully submit that the present invention is in condition for allowance. Early and favorable notice to that effect is respectfully solicited. If the Examiner has any questions regarding this submission or if an interview at this

time would further the progress of this application to a favorable conclusion, please contact the undersigned at the telephone number provided.

Respectfully submitted,

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